

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHARLES R. WILLIAMS, II,

Plaintiff,

5:22-cv-1367

vs.

**[REDACTED]
(TJM/ATB)**

COUNTY OF ONONDAGA, et al.,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this action to Magistrate Judge Andrew T. Baxter for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff brought this case pursuant to 42 U.S.C. § 1983, alleging that Defendants, the County of Onondaga, the City of Syracuse, and various law enforcement officers, lawyers, judges, and other officials, violated his constitutional rights in various ways. Plaintiff complains about his prosecution for various crimes in Onondaga County, the conduct of officials in prosecuting those crimes, and his treatment in the Onondaga County Jail. Plaintiff seeks to proceed *in forma pauperis*, and Judge Baxter provided the Complaint with an initial review to determine whether the matter should be served on any of the Defendants.

Judge Baxter's Report-Recommendation, dkt. # 8, issued on February 21, 2023, recommends that the Court dismiss the Complaint for failure to state a claim. Many of

Plaintiff's claims, Judge Baxter finds, are raised against persons who enjoy immunity from those claims. He recommends that such claims be dismissed with prejudice. Judge Baxter also finds that some claims seek to challenge Plaintiff's criminal convictions in state court, and are barred by Heck v. Humphrey, 512 U.S. 477 (1994), until Plaintiff can present evidence that such convictions have been overturned by a later proceeding. As to Plaintiff's remaining claims, Judge Baxter recommends that those claims be dismissed without prejudice to repleading. Since no federal claims exist and Plaintiff has not alleged any diversity jurisdiction, Judge Baxter also recommends that any state-law claims that Plaintiff seeks to bring be dismissed as well.

Plaintiff did not object to the Report-Recommendation. The time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly:

The Report-Recommendation of Judge Baxter, dkt. # 8, is hereby **ACCEPTED** and **ADOPTED**. Plaintiff's Complaint is hereby dismissed, as follows:

1. Plaintiff's claims against: (a) Defendant Judges Hon. Stephen J. Dougherty and Hon. Rory A. McMahon and (b) Assistant District Attorneys Jarrett Woodfork, Michael Whalen, Anthony Mangovski, and Alphonse Williams are hereby **DISMISSED WITH PREJUDICE**;
2. All of Plaintiff's claims based on testimony before a grand jury or trial by

Defendants Officer Dallas Pelz, Arthur Stripling, Tonya Burton, Tammy McNeilly, and Sasha Thornton are hereby DISMISSED WITH PREJUDICE;

3. Any claims based on violations of state or federal criminal statutes are hereby DISMISSED WITH PREJUDICE;

4. All claims against any sub-entities or departments of the City of Syracuse, New York, or Onondaga County, New York, are hereby DISMISSED WITH PREJUDICE;

5. All claims identified in Judge Baxter's Report-Recommendation as barred by Heck v. Humphrey are hereby DISMISSED WITHOUT PREJUDICE BUT WITHOUT LEAVE TO AMEND UNLESS AND UNTIL Plaintiff's criminal conviction is reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a *writ of habeas corpus*; and

6. All of Plaintiff's remaining claims are DISMISSED WITHOUT PREJUDICE AND WITH LEAVE TO AMEND.

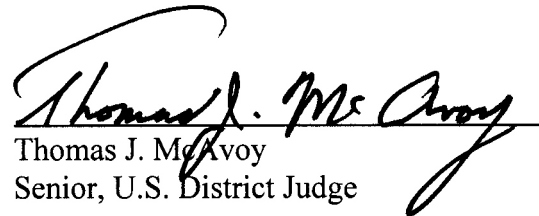
Should Plaintiff choose to submit an Amended Complaint, he shall do so within forty-five (45) days of the date of this order. Plaintiff is advised that ANY AMENDED PLEADING MUST BE A COMPLETE PLEADING, WHICH SHALL SUPERSEDE THE ORIGINAL. PLAINTIFF MUST INCLUDE ALL THE REMAINING FACTS AND CAUSES OF ACTION IN THE AMENDED COMPLAINT. NO FACTS OR CLAIMS FROM THE ORIGINAL COMPLAINT MAY BE INCORPORATED BY REFERENCE.

If Plaintiff files an Amended Complaint, that Amended Complaint shall be referred to Judge Baxter for review.

The Clerk of Court is authorized to dismiss the entire complaint without leave to Amend and close the matter if Plaintiff fails to file his Amended Complaint within the forty-five (45) days specified by this order and fails to obtain leave of court for an extension of time to file his Amended Complaint.

IT IS SO ORDERED.

Dated: March 16, 2023


Thomas J. McAvoy
Senior, U.S. District Judge